IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 27770 of 2007(E)

PETITIONER:

M/S JAYALAKSHMI AGENCIES,
PINANGODE ROAD, KALPETTA POST,
WAYANAD, REPRESENTED BY ITS
MANAGING PARTNER PONRAJ.

BY ADV. SRI.B.PREMNATH (E)

RESPONDENTS:

STATE BANK OF TRAVANCORE,
(ASSOCIATE OF THE STATE BANK OF INDIA),
KALPETTA BRANCH, KALPETTA P.O.,
WAYANAD BRANCH, REPRESENTED BY ITS
CHIEF MANAGER.

BY ADV. SRI.SATHISH NINAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/9/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.27770 of 2007

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Dated this the 18th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to issue a writ of mandamus or order staying all the proceedings pursuant to Ext.P5 sale notice till the disposal of S.A.No.73 of 2007 before the Debt Recovery Tribunal, Ernakulam. I am informed that the writ petitioner has moved an appeal and along with the same the petitioner moved an application, I.A.No.1545 of 2007 for stay. It is further informed that the court has only ordered urgent notice on the same. Now, the learned counsel wants this Court to issue a direction not to conduct the sale. I am afraid, in law, he is not entitled to such a request for the reason that one cannot pursue two parallel remedies in respect of the same matter at the same time (**Jai Singh** v. **Union of India** - A.I.R. 1977 S.C. 898). It is also to be stated that the jurisdiction under Article 227 of the Constitution can be exercised only under certain conditions as

held by the Apex Court in **Surya Dev Rai** v. **Ram Chander Rai** - 2003 (3) K.L.T. 490. I had gone through paragraph 37 of the said decision and I am convinced that none of those grounds also in existence for invoking the jurisdiction under Article 227 of the Constitution.

2. Therefore, this Writ Petition is dismissed. But I make it clear that this will not preclude the writ petitioner from moving an application for advancement of the stay application before the Debt Recovery Tribunal and pray for orders of the said Tribunal.

M.N.Krishnan,
Judge.

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